

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON AT SPOKANE

TIMOTHY DUFFY, a single man,) No. 2:16-CV-7

VS.)

COUNTY OF SPOKANE, a Washington)
political subdivision; AIRWAY HEIGHTS)
CORRECTIONS CENTER and JOHN DOES)
I-X, EMPLOYEES OF AIRWAY HEIGHTS)
CORRECTIONS CENTER, in their individual)
and official capacity.)

Defendants.

Timothy Duffy, Plaintiff in the above-captioned matter, by and through his counsel of record, Chris Jackman of the Jackman Law Firm, for his cause of action against the defendants, states as follows:

Timothy Duffy (“Duffy”) is and was at all relevant times a resident of Spokane, Spokane County, Washington State.

II.

Defendant County of Spokane (“COUNTY”) is a Washington State political subdivision. Defendant Airway Heights is a correctional facility that incarcerated the plaintiff. John Does I-are and/or were employed by COUNTY as correctional administrators and/or supervisor at all

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1 relevant times. John Does I-X were also policymakers and final decision makers for the Airway
 2 Heights Correctional Center at all relevant times, and were responsible for articulating, training,
 3 and ensuring compliance with official and unofficial policies for the protection of inmates.
 4 Defendants John Doe I-XX are and/or were employed by Defendant COUNTY as correctional
 5 officers, correctional specialists or at all relevant times. All of these individual COUNTY
 6 Defendants are liable for their actions in the individual and official capacities. All actions
 7 undertaken by any and all of the COUNTY Defendants constituted actions under color of state
 8 law. All of John Does were at all relevant times an agent of COUNTY and are liable for their
 9 actions in their individual and official capacities. All of John Does' actions constitute actions
 10 under color of state law.

13 III.

14 Jurisdiction and this action is brought pursuant to the provisions of 28 U.S.C. §§1331 and
 15 1333 and 42 U.S.C. §1983. The proper venue for this action is the United States District Court
 16 for the Eastern District of Washington because the acts and omissions complained of herein
 17 occurred in Spokane, Spokane County, Washington. A tort claim form was filed on November
 18 6, 2015.

21 **FACTUAL BACKGROUND**

23 IV.

24 Duffy, a man in his early 60's, was incarcerated at Airway Heights Corrections Center
 25 ("Airway Heights") on November 6, 2012. On this day, Duffy shared his prison cell with a man
 26 whose name, upon information and belief, was Alan Nielson. Mr. Nielson, upon information
 27 and belief, was in his mid-20's and had a known history of violently attacking elderly male

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1 inmates. The day before Mr. Nielson had been doing work outside in heavy work-boots, which
 2 he wore into the prison cell shared with Duffy, in violation of Airway Heights policy. In the
 3 early morning hours of November 6, 2012, Mr. Nielson, without provocation, violently assaulted
 4 Duffy in his bed, causing him severe and permanent personal injuries, principally by kicking
 5 Duffy in the head and weaponizing the work-boots on Duffy.

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 8 V.
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10 Defendants knew and were deliberately indifferent to the knowledge that Mr. Nielson had
 11 a known and long-established pattern of violently assaulting elderly inmates and allowed Mr.
 12 Nielson to wear work-boots into the prison cell with Duffy, in violation of prison policy.
 13 Defendants had a duty to supervise and ensure the safety of Duffy while he was in their custody,
 14 and Defendants, jointly and severally, breached this duty by allowing Mr. Nielson, a known
 15 assailant of elderly inmates, to share the same cell with Duffy. Defendants' failure to supervise
 16 and ensure Duffy's safety was done in violation of Duffy's right to due process and equal
 17 protection by employees and agents of government entities.
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19 **FIRST CAUSE OF ACTION**
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21 **42 U.S.C. §1983**
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VI.

23 Duffy incorporates Paragraphs I-V above as if fully set forth herein.
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VII.

25 Duffy had a right under the Constitution of the United States to be free from being
 26 assaulted while in the custody and care of the defendants and to be treated with indifference to
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 28

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his safety needs, as well as a right to due process and equal protection, by employees and government entities.

VIII.

At all times relevant to this Complaint, Defendants were acting under color of law, under the constitutions, statutes, administrative rules, customs, policies and usages of COUNTY, the state of Washington and the United States—and had assumed the responsibilities, activities, and rights involved in exercising their roles as members of COUNTY’s professional staff.

SECOND CAUSE OF ACTION

NEGLIGENCE

During his incarceration, COUNTY had a duty of care to protect Duffy from harms against which he was unable to protect himself. This included the assault of another inmate, for whom the correctional officers at Airway Heights had knowledge of with respect to his violent history of issuing violence upon other inmates, particularly those who were elderly. County, through its employees and agents, breached this duty by failing to take reasonable measures, such as not placing the assailant in Duffy's cell and allowing the assailant to wear heavy work-boots, in Duffy's cell, which needlessly endangered Duffy.

PUNITIVE DAMAGES

Plaintiff incorporates by reference the allegations contained in paragraphs above as if fully set forth herein.

In addition to compensatory damages, Duffy hereby makes a claim for punitive damages against defendants in an amount to be proven at trial for the willful and wanton acts and omissions of the defendants, to include violations of Duffy's civil rights, as alleged herein.

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2 **ATTORNEY'S FEES**
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5 Plaintiff incorporates by reference the allegations contained above as though fully set
6 forth herein.
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9 As a result of the defendant's actions as alleged herein, the plaintiff has been required to
10 retain the services of attorneys and are entitled to reasonable amount for attorney's fees pursuant
11 to 42 U.S.C. §1988 for those violations covered by the Civil Rights Act.
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14 **DAMAGES**
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17 Plaintiff incorporates by reference the allegations contained in paragraphs above as
18 though fully set forth herein.
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21 The acts and omissions of Defendants set forth above have resulted in the plaintiff's
22 serious injuries. Plaintiff thus seeks recovery for the following damages.
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25 a. General compensatory damages in an amount to be proven at trial for his physical and
26 mental pain and suffering stemming from the assault;
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29 b. General compensatory damages for the violation of the plaintiff's rights under the
30 federal and state Constitutions;
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33 c. Punitive damages to punish and deter the conduct alleged in this Complaint;
34 d. Attorney's fees; and
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37 e. The costs of this action and such other and further relief as this Court deems equitable
38 and proper.
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41 WHEREFORE, Plaintiff prays for judgment against the defendants as follows:
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45 **COMPLAINT**
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1 Plaintiff prays for damages in an amount which will fairly and just compensate for the
2 plaintiff's physical and emotional injuries and the violation of the plaintiff's civil rights, his pain
3 and suffering, and other consequential damages flowing from the violations and tots set forth
4 herein. Punitive damages in an amount sufficient to adequately punish the defendants and deter
5 future conduct. Attorney's fees pursuant to 42 U.S.C. §1988 and for the costs of this action and
6 for such other relief as this Court deems equitable and proper.

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9 **JURY DEMAND**

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11 Plaintiff demands a jury trial.

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13 By: /s/ Chris T. Jackman 
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